THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No19881 OF1996

ORAL ORDER:

This writ petition is filed assailing the order of the 1st respondent-Special Commissioner, Land Revenue, Hyderabad, dated 29.8.1996, thereby confirming the order of the Joint Collector-3rd respondent herein dated 15.7.1991.

The petitioner herein claims title to 15 acres of land situated in S.No.1112 of Medchal village through his late father, who was a protected tenant in respect of the said land. Since the very same land was assigned in favour of the 5th respondent and another person Mallaiah under Special Laoni Rules, 1954 by the then Tahsildar, he filed a petition before the 3rd respondent for cancellation of the said assignments.

The 3rd respondent by order, dated 15.7.1991 disallowed the claim of the petitioner and upheld the assignment in favour of the 5th respondent herein, since died, represented by respondents 7 to 11. Aggrieved by the same, the petitioner preferred an appeal before the 1st respondent. Pending the appeal, initially, interim order was granted suspending the order of the 3rd respondent. Thereafter, the impugned order dated 29.8.1996 came to be passed dismissing the Appeal on merits. The said order is under challenge in this writ petition.

Though various other grounds have been raised on merits, primarily it is contended by the learned counsel for the petitioner that the impugned order was passed without notice of hearing to the writ petitioner/appellant. In the affidavit filed in support of the writ petition, it is specifically pleaded that the Appeal was dismissed by the 1st respondent without hearing the arguments of the counsel appearing for him. Even the counsel, who appeared for the appellant before the 1st

respondent, filed an affidavit stating that no notice of hearing was issued and, consequently, he could not appear before the 1st respondent.

Though *Rule nisi* was ordered in the year 1996, no counter affidavit has been filed by any of the official respondents disputing the specific plea of the petitioner that the Appeal was dismissed without hearing his counsel. Even in the counter affidavit filed by the 5th respondent, the said plea has not been denied.

Having regard to the admitted facts, it is clear that the Appeal was dismissed without notice to the appellant (writ petitioner). Hence, the impugned order, being violative of the principles of natural justice, is liable to be set aside on that ground alone.

It is also relevant to note that pending the writ petition, this Court ordered that there shall be interim stay of all further proceedings pursuant to the order of the 3rd respondent as confirmed by the 1st respondent, and the said order continued to be in operation throughout.

In the circumstances, without expressing any opinion on merits, the impugned order is set aside and the writ petition is allowed with a direction to the 1st respondent to pass appropriate orders afresh in accordance with law as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order, after hearing both the parties. Till such time, the order of the 3rd respondent shall not be given effect to. No costs.

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(G. ROHINI).

5th March, 2007.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No19881 OF1996

5th March, 2007.

Between:

K.R. Bala Krishna. .. Petitioner.

And

The special Commissioner, Land Revenue,
Andhra Pradesh, Hyderabad and others. .. Respondents.